



IN THE CIRCUIT COURT OF LIMESTONE COUNTY, ALABAMA

STATE OF ALABAMA,

PLAINTIFF,

vs.

BLAKELY, MICHAEL ANTHONY,

DEFENDANT.

CASE NO. CC19-476

**MOTION TO REQUIRE THE STATE TO PROVIDE EFFECTIVE MEASURES FOR
REVIEW OF THE VOLUMINOUS DISCOVERY OTHER THAN A DOCUMENT AND
DATA DUMP**

Comes now the Defendant, Michael Blakely, by and through counsel and hereby moves this Honorable Court for an Order requiring the State Of Alabama to provide effective measures for review of the voluminous discovery other than a document and data dump. As grounds, the Defendant states as follows:

1. The Defendant is charged in a multi-count indictment with TWO counts of Theft of Property in the First Degree, TWO Counts Theft of Property in the Second Degree, TWO Counts of Theft of Property in the Third Degree, ONE Count of theft of Property in the Fourth Degree, FIVE Counts of Use of Official Position for Personal Gain and ONE Count of Soliciting a Thing of Value from a Subordinate. The Defendant believes that the Alabama Ethics Commission and the Alabama attorney General's Office investigated these matters for nearly two years before an indictment was returned and the Defendant was arrested.
2. The facts of the cases are highly complex and unusual and there may well exist novel questions of both law and fact which will be litigated pre-trial and at trial.
3. In response to the Defendant's Request for Discovery, counsel for the Defendant received, on or about September 27, 2019, two thumb drives. The first thumb drive contains a voluminous number of e-mails which the State has indicated they "probably won't use." The second thumb drive contains 64,418 Bates stamped documents. The State also produced a document entitled, in pertinent part, BATES-LABLED PRODUCTION which expressed a brief description such as "First national Bank" and a Bates numbers from BLAK-FNBANK000001-BLKFBANK024738". No other description was provided and there is no indication as what documents relate to which count of the indictment.

4. In reviewing the discovery, it appears to be a “Data Dump” with many of the documents, text messages etc. clearly irrelevant to the indictment at hand.

5. To put things into perspective, should the Defendant choose to copy the 64,418 documents contained on the second thumb drive alone, those pages would fill 15 banker boxes.

6. In its present form the discovery in this case is unmanageable. The average reader reads approximately 20 pages per hour. It will take the Defense over one hundred hours just to read the discovery materials one time, much less analyze, categorize, and annotate the documents. It will take even longer to ferret out the documents relevant to the various charges of the indictment.

7. While the Defense appreciates transparency and full disclosure by the State, the Defense respectfully requests that this Honorable Court enter an Order directing the State to provide not only full disclosure but also some indication as to which documents relate to what count of the indictment and which documents will be used as court exhibits at trial.

8. In the alternative, the Defense will consider any method or measures suggested by the Court or the State (other than a document dump) that would make handling of the voluminous discovery reasonably and effectively manageable.

9. Attached hereto for the Court’s review are two exhibits, **EXHIBIT A** and **EXHIBIT B**. Exhibit A is an article written by lawyers of the Kaplan Marino law firm of Beverly Hills, CA which outlines and discusses voluminous discovery and Data Dump practices. Exhibit B is a document entitled “Recommendations for Electronically Stored Information (EIS) Discovery Production in Federal Cases”. The document was the result of collaboration between the Department of Justice (DOJ) and Administrative Office of U.S. Courts (AO) Joint Working Group on Electronic Technology in the Criminal Justice System (JETWG). The recommendations have been adopted by the Federal Courts for use in handling cases involving large amounts of electronic discovery.

Wherefore, the Defendant respectfully requests that this honorable Court enter an Order directing the State to provide reasonable and effective measures for handling the voluminous discovery.

Dated this 22nd day of October, 2019.

/s/ Robert B. Tuten
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CERTIFICATE OF SERVICE

This document has been filed electronically and served upon opposing counsel pursuant to the Administrative Procedure for Filing Signing and Verifying Documents by Electronic Means in the Alabama Judicial System. For any opposing counsel or unrepresented parties who are not registered to file electronically, a copy of this pleading shall be served via the U.S. mail, postage pre-paid, to the litigant's address as maintained in the office of the Circuit Clerk.

Done this 22nd day of October, 2019.

/S/ Robert B. Tuten
ROBERT B. TUTEN